

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 338 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

and

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GEB

Versus

RANABAIBEN LAKHABHAI

Appearance:

MS MAYA DESAI FOR MR MD PANDYA for Appellants.

MR AMAR D MITHANI for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE D.A.MEHTA

Date of decision: 20/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Admit.Issue notice. Mr.Amar D.Mithani accepts the notice and waives the service. On the request of both the sides the matter is taken up for final disposal right today.

The present appeal filed by the appellant Gujarat Electricity Board, defendant in the Special Civil Suit is

directed against the judgment and decree dated 31.8.1998 passed by the 3rd Joint Civil Judge (S.D), Junagadh in Special Civil Suit No.93 of 1992 whereby the plaintiffs' suit was decreed against Gujarat Electricity Board for a sum of Rs.1,50,000/- with running interest at the rate of 12% per annum from the date of filing the suit till realisation and the sum of Rs.50,000/- out of this amount of Rs.1,50,000/- was directed to be deposited in the name of the plaintiffs in any Nationalised Bank by way of fixed deposit for a period of five years.

In this case the notice was issued on 24.04.2000 by the Court and was made returnable on 12.06.2000. Thereafter, the matter came up before the Court on 13.12.2000. Both the parties submitted that the matter is likely to be settled and will be settled on or before 20.12.2000.

Today it has been given out by learned Counsel for the appellant that the Board has decided to settle the matter for a sum of Rs.1,25,000/- and to this proposal Mr.Amar D.Mithani, learned Counsel appearing on behalf of the respondents has no objection in as much as he has stated that he has instructions from Mr.M.N.Lalwani, Advocate who appeared in the Trial Court on behalf of the respondents-plaintiffs. In this view of the matter with the consent of both the sides the impugned decree is modified as under :

The defendants are directed to pay the compensation to the plaintiffs due to the death of Anubhai Lakhbhai by electric shock at Rs.1,25,000/- (Rupees One Lac Twenty Five Thousand only) with running interest at the rate of 12% per annum from the date of filing the suit till realisation. Defendants are directed to deposit this amount in Court. Out of this amount, we hereby direct the Nazir to deposit a sum of Rs.50,000/(Rs.Fifty thousand only) in the name of the plaintiffs, in any of the Nationalised Bank in a fixed deposit for a period of five years.

Further, we hereby direct the Nazir, on realisation of the amount, first the deficit amount of court fee stamp be deducted, if any, and remaining entire amount shall be paid to the plaintiffs by Account Payee Cheque only. Parties to bear their own costs. Decree to be drawn accordingly.

The learned Counsel for the appellants has also submitted that the Gujarat Electricity Board has already deposited Rs.3,00,000/- in the Trial Court. The Trial Court may refund the proportionate amount, if any, by treating the decree to have been passed for a sum of Rs.1,25,000/- only instead of Rs.1,50,000/-. The appeal is therefore partly allowed as above. In the facts and circumstances of the case no order as to costs.

Sd- Sd/-

(M.R.Calla, J) (D.A.Mehta,J)

m.m.bhatt